IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 172 of 2002

in

SPECIAL CIVIL APPLICATIONNo 3188 of 2002

with

CIVIL APPLICATION No 3122 of 2002

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PJ PATEL

Versus

STATE OF GUJARAT

Appearance:

MR PARESH UPADHYAY for Appellant No.
M.A.Bukhari, AGP, for Respondent No. 1-2
MR SK PATEL for Respondent No. 3
NOTICE SERVED BY DS for Respondent No. 4-5

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE K.A.PUJ

Date of decision: 25/03/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

Admit. Service of notice is waived by learned learned AGP, Mr.Bukhari for the respondents.

The only short question which has surfaced in this Letters Patent Appeal, under clause 15 of the Letters Patent Appeal, against the decision of the learned single Judge dated 11.3.2002 in Special Civil Application No.3188 of 2002, whereby, the petition came to be dismissed holding it to be premature is, as to whether the petition, in the light of the factual profile emerging from the record can be branded or characterised as premature ?

After having given our anxious thoughts and consideration to the facts and circumstances and submissions of both the parties and the order dated 1st May 2002 in respect of seniority qua the appellant, whereby, his plea came to be turned down and the orders dated 9.10.2001 and 27.12.2001, which we have examined and evaluated, it cannot be said even for a moment that the plea advanced in the writ petition is in any way premature. Therefore, in our considered opinion, the view of the learned single Judge and the ultimate conclusion of rejection of the petition on the ground of it being premature does not stand to scrutiny and the order is required to be quashed and set aside remitting the matter to the learned single Judge for consideration and adjudication on merits in accordance with law.

In the result, the appeal is allowed. The impugned order of the learned single Judge is quashed and set aside with a direction to remit the entire matter to the learned single Judge for fresh consideration and adjudication in accordance with law on merits, with no order as to costs.

The Civil Application also stands disposed of accordingly.

(J.N.Bhatt, Acting CJ)

(K.A.Puj, J.)

(vjn)